

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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WATERKEEPERS NORTHERN
CALIFORNIA, a non-profit
corporation, doing business as
DELTAKEEPER, and BILL
JENNINGS, an individual;

NO. CIV. S 00-1967 MCE PAN

Plaintiffs,

v.

ORDER

AG INDUSTRIAL MANUFACTURING,
INC., a corporation; and
CLAUDE E. BROWN, an
individual;

Defendants.

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By letter to the Court dated September 21, 2005, counsel for
Plaintiffs in this matter has requested a ruling as to the
parties' request for limited additional discovery in this matter.
In January of 2005, the parties approved and submitted to the
Court for signature a revised Status (Pretrial Scheduling) Order
("PTSO") in this matter given the fact that the original PTSO,
issued on January 5, 2005, had become outdated due to a

1 subsequent dismissal of the case for lack of subject matter
2 jurisdiction, and proceedings on appeal which ultimately resulted
3 in return of the matter to this Court for further handling in
4 early 2005. Given the reactivation of the matter before this
5 Court, and the fact that the original discovery deadline had
6 passed as of April 18, 2002, both parties requested that limited
7 additional discovery be permitted in order to bring the case up
8 to date.

9 Because the parties' cross motions for summary judgment did
10 not result in a disposition of the entire case, with a jury trial
11 on calendar for December 7, 2005, the request for additional
12 discovery must now be addressed.¹ Discovery will be permitted,
13 as of the date of this Order, for the limited purpose of
14 addressing matters that have transpired since April 18, 2002 with
15 respect to the following: 1) any ongoing discharge of
16 pollutants from Plaintiffs' Lodi manufacturing facility; 2)
17 Plaintiffs' compliance with required pollution control measures
18 at said facility; and 3) updated financial disclosures by
19 Plaintiffs. That limited discovery shall be completed not later
20 than December 16, 2005.

21 In accordance with the additional time being afforded for
22 discovery, the currently scheduled final pretrial conference, set
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24 ¹By letter to the Court dated September 22, 2005,
25 Plaintiffs' counsel now objects to "completely reopening
26 discovery" in an "unlimited" fashion due to concerns about
27 expeditiously moving this case towards trial. As set forth
28 below, however, the additional discovery being permitted is not
unlimited. In addition, Plaintiffs' September 22, 2005 letter
expresses no opposition to continuance of the trial in this
matter, so long as it is not scheduled past March of 2006. The
continuance granted below is within those parameters.

1 for October 24, 2005, as well as the December 7, 2005 jury trial,
2 are hereby vacated. The final pretrial conference is rescheduled
3 to February 6, 2006 at 1:30 p.m. Trial in this matter, which
4 shall be before an eight-member jury, shall commence on March 22,
5 2006 at 9:00 a.m.

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7 IT IS SO ORDERED.

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9 DATED: October 3, 2005

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13 MORRISON C. ENGLAND, JR.
14 UNITED STATES DISTRICT JUDGE
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